



STATE OF CONNECTICUT

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PROBATE COURT ADMINISTRATOR

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**TO:** Senator Gary A. Winfield  
Representative Steven J. Stafstrom  
Senator John A. Kissel  
Representative Rosa C. Rebimbas  
Honorable Members of the Judiciary Committee

**FROM:** Paul J. Knierim  
Probate Court Administrator

**RE:** RB 7130, An Act Concerning Probate Court Operations

**DATE:** February 22, 2019

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Thank you for the opportunity to testify in support of Raised Bill 7130, An Act Concerning Probate Court Operations, which the Connecticut Probate Assembly and the Office of the Probate Court Administrator jointly support. The bill paves the way for the Probate Courts to launch an electronic filing system, improves due process protections in involuntary conservatorship cases and makes technical corrections to several probate statutes.

**Electronic Filing**

The launch of eFiling for the Probate Courts represents a leap forward in streamlining procedures for users. Electronic filing will enable users to do business with our courts remotely on a 24-7 basis. Parties and attorneys will be able to file, send and receive documents, view court records and pay fees using the Internet. eFiling will also help court staff to manage an increasing caseload with greater efficiency. Sections 1, 4, and 10 through 15 contain needed statutory changes for eFiling.

Section 1 provides that the court may use the eFiling system to send notices to a party or attorney who has signed up for eFiling on a case. Notice through the eFiling system would be deemed to satisfy any statutory notice requirement that specifies a method of transmission (such as U.S. mail), except when the statute requires personal service. Users will be advised of this procedure at the time of

registration and will have the option of configuring their eFiling account to provide text or email notifications whenever a message is sent to the person's eFiling message box.

Use of the eFiling system to communicate with parties also necessitates changes to the appeals statutes because the appeals period is currently measured from the date on which a decree is mailed. In sections 10 through 15, we propose that the appeals period would begin running on the date when the court sends the decree through the eFiling system or, if later, the date when the decree is mailed.

Finally, section 4 provides the means to pay for the eFiling system by increasing the filing fee from \$225 to \$250. The filing fee was last adjusted three years ago.

### **Children's Matters**

Several provisions of the bill update statutes relating to children's matters in the Probate Courts.

Section 2 amends section 17a-101j, which sets forth various circumstances under which the Department of Children and Families must notify other entities of substantiated abuse against a child. Under the existing statute, DCF notifies the Probate Court when an investigation substantiates abuse or neglect by a person whom the court has appointed as guardian. The change adds a requirement to report substantiated abuse or neglect by any member of the guardian's household.

Section 5 repeals a provision that permits a Probate Court to appoint a guardian for a minor on its own motion. The proposed change is intended to avoid the appearance of conflict that arises when a court initiates a matter that it must then hear and decide. Under the proposed revision, a petition to appoint a guardian may be initiated by a relative, a person with actual physical custody or an attorney for the child.

Sections 7 through 9 propose changes for termination of parental rights cases. Section 7 would require the court to give notice to a child whose parent is subject to possible termination if the child is 12 or older. Section 9 permits notice of a hearing to appoint a statutory parent by first-class mail, rather than certified mail. (A statutory parent is a licensed agency that places children for adoption.) Section 8 spells out responsibility for payment of fees when the court orders the examination of a child or parent by a physician, psychiatrist or psychologist. It also clarifies responsibility for payment of fees when the court appoints an attorney for the child.

### **Intellectual Disability**

We propose two changes to the statutes governing guardianship of adults with intellectual disability, both aimed at streamlining Probate Court procedures.

Section 6 eliminates the requirement of personal service for a petition to remove the guardian of an adult with intellectual disability. The expense of personal service is not warranted in this context because the guardian who is the subject of the removal hearing is a court-appointed fiduciary who is obligated to maintain regular contact with the court.

Section 16 eliminates five-year reviews of involuntary placements because the procedure is duplicative of another statutory procedure that affords the individual the right to an annual hearing.

### **Conservatorship**

Section 17 strengthens due process protections by repealing a procedure for freezing the assets of a person who is the subject of a conservatorship proceeding (the person is referred to as a "respondent" in the statute). Under the existing statute, a petitioner can freeze the assets of the respondent by filing a certified copy of the petition with any financial institution or recording the copy on the land records. We believe that the existing statute is constitutionally infirm because it enables the petitioner to act unilaterally without prior judicial review.

It bears noting that conservatorship is an essential tool when a person with cognitive impairment is being exploited. Fast action is often needed to quickly end abuse. We believe that the need is fully satisfied, even if the asset freeze statute is repealed, by means of the existing temporary conservatorship procedure. Temporary conservatorship provides an expedited process while protecting the due process rights of the respondent. The court conducts a hearing within three days of the petition (or, in especially urgent situations, immediately on an *ex parte* basis), but first appoints an attorney to represent the respondent. If there is sufficient medical evidence that the individual is incapable and at risk of irreparable harm, the court may appoint a temporary conservator who has the ability to take control of the respondent's assets and prevent any further exploitation.

### **Names of Probate Courts**

Section 3 clarifies the authority of the Probate Court Administrator to name or rename Probate Courts. As written, the current statute addresses the process by which new names were established during the consolidation of the Probate Courts in 2011. The new language codifies our existing practice of publishing court names in an annual directory.

We appreciate the committee's consideration and respectfully urge passage of the bill.